

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0450P

Individual Income Tax

Calendar Year 1999

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ISSUE(S)

I. **Tax Administration** – Late payment penalty

Authority: IC 6-8.1-10-2; 45 IAC 15-11-2

Taxpayers protests the penalty assessed.

STATEMENT OF FACTS

Taxpayers, in a letter dated October 25, 2000 protested the penalty because they owned an S corporation whose income flows through to its personal income tax return. At April 15, 2000, the corporate year-end was not yet complete. As a result, taxpayers estimated the amount of flow through profit to be reported on its personal income tax returns. On April 15, 2000, taxpayer filed federal Form 4868 with the IRS and Form IT-9 with the State with a remittance of \$3,639. Because of a clerical error, the Form IT-9 was inadvertently incorrectly prepared in the amount of \$3,629 instead of the correct amount of \$32,200. In early August taxpayers filed their completed return and remitted the additional tax, which should have been paid in April.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayers had reasonable cause in not submitting payment timely.

Taxpayers failed to pay forty-nine percent (49%) of its tax by the due date of the return and state that the failure to remit the full amount of tax due by the due date was due to a clerical error. Taxpayers

request the department waive its penalty.

IC 6-8.1-10-2 (a) states:

If a person fails to file a return for any of the listed taxes or fails to pay the full amount of tax shown on his return on or before the due date for the return or payment, incurs, upon examination by the department, a deficiency which is due to negligence, or fails to timely remit any tax held in trust for the state, the person is subject to a penalty.

IC 6-8.1-6-1(c) states:

If the Internal Revenue Service allows a person an extension on his federal Income tax return, the corresponding due dates for the person's Indiana income Tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

Taxpayer should have remitted at least ninety percent (90%) of the tax due by April 15, 1999. Taxpayer has not provided reasonable cause for failure the remit tax by the due date.

FINDING

Taxpayer's protest is denied.